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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,311	03/16/2004	Sanjeev Nath	NATL-105 (US)	1982
47670	7590	11/16/2005	EXAMINER	
KELLEY DRYE & WARREN LLP TWO STAMFORD PLAZA 281 TRESSER BOULEVARD STAMFORD, CT 06901			WALK, SAMUEL J	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/801,311

Applicant(s)

NATH ET AL.

Examiner

Samuel J. Walk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-22 is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/24/2005
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Status of Claims***

1. In the Amendment dated 08/19/2005, Claim 2 has been cancelled and Claim 22 has been added; therefore, Claims 1, 3-22 remain pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leivian (US 2002/0120371) in view of Loraas (US 5931254).

In reference to Claim 1, Leivian discloses a method of response synthesis in a driver assistance system wherein claimed defining and monitoring an object is met by system 100 through sensor fusion module 102, see para. [0024-0028]. Leivian further discloses the system operates continuously, see para. [0031] and directly, or in other words, instantly, see para.

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[0039]. Leivian further discloses driver condition data 116 includes video or imaging sensors that monitor head, body, hand and feet movements of the driver. Leivian does not disclose scanning or tracking a contour or silhouette of an object. However, Loraas teaches of a non-contact operator presence sensor wherein controller 86, using detectors 27, does a detailed analysis of the silhouette of the item sense by the detectors, see Col. 7 lns 64-67 and Col. 8 lns 1-9. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Loraas into the system of Leivian because silhouette analysis provides faster processing. In addition, Loraas further teaches that during normal operation, the operator closes the ignition switch 70 supplying power to the basic electrical system, to controller assembly 76 and to the remainder of the control system. Then, optical sensors 46, 48 and 50 provides signals to controller 86, see Col. 6 lns 18-27. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the motor/engine is running when the measuring and monitoring of the silhouette is taking place.

In reference to Claim 3, Leivian discloses driver condition data includes video or imaging sensors that monitor head, body,

hand and feet movements of the driver, see para. [0028].

Leivian further discloses driver condition interface 206 which uses video and other imaging sensors to provide monitoring on driver blink rate and gaze, see para. [0039].

In reference to Claim 4, see above rejection in reference to Claims 2 and 3.

***Allowable Subject Matter***

4. Claims 5-22 are allowed.

5. The following is an examiner's statement of reasons for allowance: Prior art fails to show a contour definition device configured to generate a silhouette of the face/head of the operator of a motor vehicle, pupil reflex determination configured to locate the presence of pupils in a defined zone overlying an outline of the face/head of an operator, real-time monitoring and tracking of outline position and real-time monitoring and tracking of pupil position.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel J. Walk whose telephone number is (571) 272-2960. The examiner can normally be reached on M-F: 8:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJW

  
DANIEL WU  
SUPERVISORY PATENT EXAMINER  
11/14/05